

perform the method of claim 65.

73. (Previously Presented) An apparatus for selling an aging food product, comprising:

a processor, and

a storage device that stores a program for directing the processor;

the processor being operative with the program to:

perform the method of claim 67.

74. (Previously Presented) A computer readable medium encoded with instructions for directing a processor to:

perform the method of claim 67.

R E M A R K S

- Claims **1 – 34, 36 – 56 and 65 – 74** are currently pending in the present application.
- Of the pending claims, claims **1, 56, 65, 67 and 69 – 74** are independent.

Claims **1 – 34, 36 – 56 and 65 – 74** stand rejected under 35 U.S.C. 103(a) as being unpatentable over the Kansas consumer lease purchase agreement act (“Kansas Act” herein) and, apparently, Official Notice. Applicants traverse this rejection for the reasons stated below. Nevertheless, solely to expedite allowance of claims addressing a particular embodiment of the present invention, Applicants have amended the pending independent claims as discussed below.

Applicants traverse the rejection for a variety of reasons. First, Applicants do not agree that a lease-purchase agreement is equivalent to a subscription, as the term is used in the specification. Second, Applicants respectfully submit that no *prima facie* case of obviousness has been established because no motivation to combine the prior art has been provided.

Nevertheless, to expedite allowance of the claims and to claim a particular embodiment of the present invention, Applicants have amended each of the pending indent claims to recite the following feature:

wherein a customer fulfills the subscription by visiting
the at least first retailer to obtain units of the product
during a duration of the subscription

None of the prior art of record, alone or in combination, teaches or suggests this feature. In a lease-purchase agreement, a person agrees to use property and makes periodic payments in exchange for the ability to continue to use the property. See, for example, the definition of “lease-purchase agreement” in Section 50-681 of the Kansas Act. The person does not obtain units of the property during the agreement (by visiting a retailer or otherwise), as the person is already in possession of the unit of the property that is the subject of the agreement in order to be able to use it. In the claimed embodiments of the present invention, a consumer fulfills a subscription by visiting a retailer to obtain units of the property. See, for example, page 30, line 18 through page 33, line 17. This is advantageous at least because the consumer may purchase another product from the retailer while the customer is visiting the retailer to obtain the product that is the subject of the subscription. The prior art does not provide such an advantage.

Each of the pending dependent claims includes the above feature by virtue of being dependent from one of the amended independent claims and is thus patentable at least for the same reasons as the independent claims.

Applicants are hopeful that the present amendments sufficiently clarify the term “subscription” for the Examiner. Applicants sincerely invite the Examiner to initiate a telephone interview with the Applicants’ representative (contact for which is provided below) if the Examiner has any further concerns regarding the pending claims.

CONCLUSION AND PETITION FOR EXTENSION OF TIME

It is submitted all of the pending claims are in condition for allowance and the Examiner's early re-examination and reconsideration are respectfully requested.

Alternatively, if there remains any question regarding the present application or any of the cited references, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is cordially requested to contact Magdalena M. Fincham at telephone number 203-461-7041 or via electronic mail at mfincham@walkerdigital.com.

Petition for Extension of Time to Respond

Applicants hereby petition for a **two-month** extension of time with which to respond to the Office Action. If an additional extension of time is required in addition to that requested, please grant a petition for that extension of time which is required to make this Response timely.

Please charge as follows:

Charge: \$210.00

Deposit Account: 50-0271

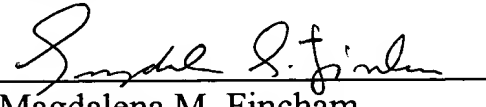
Order No. 99-077

Charge any additional fees or credit any overpayment to the same account.

A duplicate copy of this authorization is enclosed for such purposes.

May 5, 2004
Date

Respectfully submitted,


Magdalena M. Fincham
Attorney for Applicants
Registration No. 46,085
mfincham@walkerdigital.com
Walker Digital, LLC
203-461-7041 / voice
203-461-7300 / fax